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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,616	08/23/2001	Toshiya Mori	NAK1-BP80	9001

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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT PAPER NUMBER

2623

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/935,616	MORI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chris Lambrecht	2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/8/2006</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 11–15 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11–15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,374,405 to Willard (of record) in view of U.S. Patent No. 5,448,568 to Delpuch et al. (“Delpuch”).

Regarding claim 11, Willard discloses a broadcasting apparatus (fig.1 item 10) that broadcasts broadcast programs (col.4 ll.18–35), each of which is to be reproduced by a receiving apparatus (fig.1 item 20) in a reproduction time period between a reproduction starting time and a reproduction finishing time (i.e., where each program is reproduced, col.8 ll.5–14, each is inherently reproduced between a reproduction starting time and finishing time), the broadcast apparatus comprising:

a scheduling unit (fig.3 item 34) operable to generate a schedule for transmitting the broadcast programs (col.5 l.55–col.6 l.16), the schedule including a transmission starting time and a transmission finishing time for each broadcast program (broadcast schedule for

television programs, col.5 ll.2–8; transmission start times and delivery times for interactive applications, col.6 ll.34–42), and

wherein the scheduling unit generates the schedule so that (a) as for a specific program (fig.7a, MOD. 1) among the broadcast programs, a transmission starting time (*id.*  $S_1$ ) which is a predetermined amount of time (*id.*  $I_1$ ) before the reproduction starting time (*id.*  $D_1$ ) of the specific program and a transmission finishing time is set at the reproduction starting time of the specific program (col.9 ll.16–41, col.4 ll.50–60), and (b) as for a broadcast program other than the specified program (i.e., a television program), a transmission starting time is set at the reproduction starting time of the broadcast program and a transmission finishing time is set at the reproduction finishing time of the broadcast program (where television programs are processed and reproduced at receiving station as they are received, col.8 ll.5–15, transmission start and finish times correspond with reproduction start and finish times, respectively),

the predetermined amount of time in the schedule generated by the scheduling unit is a time period necessary for transmitting the specific program at least once (col.9 ll.36–42, col.2 ll.59–61),

the scheduling unit includes generation unit operable to generate first messages (fig.5item 58) which designate the receiving apparatus to store the specific program (col.7 ll.57–65) in a storing unit (fig.6 item 67) within the receiving apparatus (col.9 ll.61–66); and

a transmission unit (fig.3 items 33, 34) operable to transmit each broadcast program only in the time period between the transmission starting time and the transmission finishing time according to the schedule (col.6 ll.7–17); and to transmit the first messages for a

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duration from the transmission starting time to the transmission finishing time of the specific program (col. 7, ll. 54-65),

the transmission unit transmits contents including scripts (i.e., application code) for control for a duration from a broadcasting starting time of the specific program to a reproduction finishing time of the specific program (col.7 l.28–col.8 l.37),

and the scripts for control perform control so that the specific program is stored in case of receiving the first message (col.7 ll.54–65).

Willard is silent with respect to generating and transmitting the second message, and performing control so that the specific program is reproduced in case of receiving the second message.

In an analogous art, Delpuch discloses an apparatus and corresponding method for transmitting an interactive A/V program (abstract), the system comprising:

a scheduling unit (fig.1 item 16) operable to generate the claimed second message, which designates the receiving apparatus to reproduce the specific program stored in the storing unit (col.3 l.63–col.4 l.4, col.5 ll.44–45);

a transmission unit (fig.1 item 28) operable to transmit the second message in the reproduction time period of the specific program (col. 11 ll.19–26),

and the scripts for control perform control so that the specific program is reproduced in case of receiving the second message (col.11 ll.27–38).

Delpuch further discloses that use of the second message alleviates situations resulting in undesirable displays produced by the interactive program (col.10 ll.29–52).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Willard to include generating and transmitting the second message, and performing control so that the specific program is reproduced in case of

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receiving the second message, as taught by Delpuch, to improve presentation of interactive programs in the broadcasting system.

As to claim 12, Willard and Delpuch together disclose the apparatus of claim 11 wherein the generation unit is operable to generate a third message to delete a program stored in the storing unit (col.10 ll.53–64).

As to claims 13–15, see Willard and Delpuch as applied to claims 11 and 12, above. Willard further discloses a computer-readable medium storing therein a computer program that, when executed, causes a broadcasting apparatus to perform a method comprising steps corresponding to the functions performed by the disclosed broadcasting apparatus (col.6 ll.47–51).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on M-F, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on M-F at (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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